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In re Application of
CHIBA, et al.
U.S. Application No.: 10/049,887
PCT No.: PCT/JP00/05474
Int. Filing Date: 16 August 2000
Priority Date: 19 August 1999
Attorney's Docket No.: 081356-0168
For: NOVEL YEAST VARIANTS AND PROCESS
FOR PRODUCING GLYCOPROTEIN
CONTAINING MAMMALIAN TYPE SUGAR
CHAIN

COMMUNICATION

This file is before the PCT Legal Office for issues arising under 35 U.S.C. 371.

BACKGROUND

On 16 August 2000, applicant filed international application PCT/JP00/05474, which claimed priority of an earlier application filed 19 August 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 01 March 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 16 February 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 19 February 2002.

On 19 February 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a translation of the international application into English and a First preliminary amendment.

On 21 May 2002, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 20 September 2002, applicant filed a response to the Form PCT/DO/EO/905 accompanied by a combined declaration and power of attorney and a petition for a two-month extension of time.

COMMUNICATION

The combined declaration and power of attorney filed on 20 September 2002 is not a proper reply to the Form PCT/DO/EO/905 mailed 21 May 2002 as it does not comply with 37 CFR 1.497 (a)-(b). Specifically, the fourth listed inventor is listed and executed as "Nagako KAWASHIMA" whereas the International Application lists the fourth inventor as "Eiko KAWASHIMA." Applicant must provide either a declaration executed with the name which appears on the international application, "Eiko KAWASHIMA" or in the alternative, a petition under 37 CFR 1.182 requesting that applicant's name be changed to "Nagako KAWASHIMA." In order to be granted, the petition under 37 CFR 1.182 must include an affidavit signed by inventor KAWASHIMA with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order as well as the \$130.00 petition fee. See MPEP 605.04(c). In the alternative, applicant may also provide a showing that a change was effected under PCT Rule 92bis during the international stage.

CONCLUSION

Applicant is hereby afforded ONE (1) MONTH from the mail date of this communication to furnish the proper reply as indicated above. The time period for furnishing the reply is not extendable. Failure to file the reply within the time period provided will result in abandonment.

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the International Division, Legal Staff.



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